

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 659 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
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ANIL AHMED BABUBHAI SHAIKH

Versus

K N SHARMA

Appearance:

MR MANSURI for MR RR MARSHALL for Petitioner
MR KT DAVE, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 26/04/2000

ORAL JUDGEMENT

#. The petitioner - Anil Ahmed Babubhai Shaikh, has been detained under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act" for

short) by virtue of an order passed by Commissioner of Police, Surat City, Surat, in exercise of powers under Section 3(1) of the PASA Act, dated December 20, 1999.

#. The grounds of detention indicate that the detaining authority took into consideration 1 offence registered against the petitioner. The detaining authority also took into consideration the statements of two anonymous witnesses in respect of two incidents that occurred on October 31, 1999 and 21st November, 1999 and came to conclusion that the petitioner is a "bootlegger", that his activities are detrimental to public order, that fear expressed by the witnesses qua the petitioner was genuine and therefore, powers under section 9(2) of the PASA Act were exercised by the detaining authority by not disclosing identity of these witnesses.

#. The petition deserves to be allowed only on the ground that pursuant to the representation made on behalf of the detenu, documents demanded have not been supplied to the detenu. The representation was addressed to the government and the government directed the detaining authority to supply the documents demanded in the representation. However, as per the statement made at the bar by Mr. Mansuri, learned advocate, appearing for Mr. R.R. Marshall, learned advocate for the petitioner, the documents are not supplied. Mr. K.T. Dave, learned AGP also could not show anything to indicate the supply of such documents. The non-supply of relevant documents even after the direction of the government can be said to have vitiated the continued detention, as it has affected the right of the detenu of making an effective representation. The petition therefore, deserves to be allowed.

#. The petition is allowed. Impugned order of detention dated 20th December, 1999 is hereby quashed and set aside. The detenu - Anil Ahmed Babubhai Shaikh is ordered to be set at liberty forthwith, if not required in any other matter. Rule is made absolute with no order as to costs.

[A.L. DAVE, J.]

pirzada/-